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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 JACOB GREGOIRE,
15
16 Plaintiff,
17
18 v.
19 CALIFORNIA HIGHWAY PATROL,
an agency of the State of California;
20 SERGIO FLORES, and DOES 1 to 20,
21 Defendants.

Case No.: 14-cv-01749-GPC (DHB)

**PARTIES' JOINT MOTION TO
ALLOW DEPOSITION OF
CERTAIN WITNESSES AND
MEDICAL EXAMINATION
AFTER DISCOVERY DEADLINE**

Date: Ex Parte
Time: Ex Parte
Courtroom: Tenth Floor (Annex)
Judge: The Honorable David H.
Bartick

22
23 **TO THE ABOVE-ENTITLED COURT:**

24 Plaintiff and Defendants have encountered an unanticipated problem in lining
25 up the depositions of three people (Plaintiff Jacob Gregoire, Chula Vista Fire
26 Department Captain David Albright, and California Highway Patrol Sergeant Dan
27 Kyle) prior to the new discovery cutoff deadline that the Court recently granted the
28 parties. The same unanticipated problem has affected the ability to line up a

1 defense psychiatric medical examination of Plaintiff Jacob Gregoire prior to the
2 discovery deadline. This problem will be explained below in support of the Parties'
3 Joint Motion to allow these three depositions and the proposed medical
4 examination to occur after the discovery deadline.

5 While the depositions of Plaintiff Jacob Gregoire and Captain David Albright
6 were noticed on July 30, 2015, to take place on August 11, 2015, and August 13,
7 2015, respectively, both of these individuals were previously sent to northern
8 California for a few weeks to fight the wildfires that have been occurring up there.
9 They are not expected to return until August 16th, and Plaintiff's counsel will not
10 be able to communicate with them until early that week to find out proposed new
11 dates for scheduling depositions. They have been in remote locations with only
12 sporadic ability to make contact with others, so the parties have not been able to
13 plan new deposition dates and the proposed medical examination. The parties will
14 also not know the work expectations of Plaintiff's and Captain Albright's employer
15 until these two individuals return the week of August 17, 2015. It is not presently
16 possible to plan for rescheduling their depositions on short notice the week of
17 August 17th.

18 At the same time, Plaintiff's attorneys are scheduling the depositions of at
19 least three CHP officers to take place the week of August 17, 2015. This will
20 occupy much of the time available that week for depositions. In addition, defense
21 counsel has a trial call in Riverside on Friday, August 21, 2015, so defense counsel
22 will be in Riverside most of the day on Friday. Also, because of the trial call, much
23 of defense counsel's time that week will be spent in the final steps of trial
24 preparation (preparing for in limine motions, jury instructions, and witness
25 examination preparation) for the trial that begins on August 24, 2015. This trial is
26 expected to last at least one week, and possibly one or two days into the next week.
27 This means that defense counsel will not be available to take the depositions of Mr.
28

1 Gregoire and Captain Albright until sometime after September 2, 2015, assuming
2 the Riverside Superior Court starts the trial on time.

3 At the same time, Plaintiff's attorneys want to take the deposition of CHP
4 Sergeant Dan Kyle. In attempting to schedule the date for Sergeant Kyle's
5 deposition, defense counsel was informed by the CHP that Sergeant Kyle has been
6 on vacation since July 20, 2015, and won't return until September 7, 2015. Thus,
7 his deposition cannot be taken until after that time.

8 The parties are in agreement for defense psychiatry expert Dominic Addario,
9 M.D. to conduct a medical examination upon Plaintiff. The parties have agreed to
10 an examination consisting of 90 minutes of interview time and an additional 90
11 minutes of testing. As noted above, Plaintiff has not been available in the last few
12 weeks to participate in this examination. The next available dates that Dr. Addario
13 has to conduct the examination are currently September 2, 2015, September 10,
14 2015, and September 15, 2015, all at 10:00 a.m. Upon Plaintiff's return (assuming
15 any expansion of the fires does not require Plaintiff to stay in northern California
16 longer), the parties will coordinate with Plaintiff to line up the earliest possible
17 examination date that remains available on Dr. Addario's calendar.

18 The parties are also in agreement to proceed with initial expert reports on
19 September 7, 2015, in accordance with the Court's current scheduling order.
20 Defense psychiatry expert Dr. Addario will produce his report of opinions based on
21 the document reviews and analysis he will have conducted before September 7,
22 2015. However, under the current circumstances, it is likely that Plaintiff's
23 deposition may not be completed in sufficient time prior to September 7, 2015 (if
24 not after), to allow Dr. Addario to consider the impact of the deposition testimony
25 on his opinions. Therefore, the parties are in agreement that, if the Court allows the
26 medical examination and deposition of Plaintiff to be completed after the discovery
27 deadline, Dr. Addario will quickly prepare an amended report to discuss any impact
28 the medical examination and Mr. Gregoire's deposition transcript have on his

1 opinions. The defense will pay for an expedited production of the transcript of Mr.
2 Gregoire's deposition to make this process as quick as possible.

3 Accordingly, the parties are respectfully asking the Court for the following
4 exceptions to the August 24, 2015, discovery deadline and the September 7, 2015,
5 expert witness report deadline:

6 (1) The depositions of Plaintiff, Captain Albright, and Sergeant Dan Kyle can
7 take place on or before September 18, 2015.

8 (2) The above-described medical examination of Plaintiff can take place on or
9 before September 18, 2015.

10 (3) Dr. Addario will provide an amended expert witness report within 14 days
11 of receiving Plaintiff's deposition transcript or conducting the examination,
12 whichever is later.

13 Dated: August 13, 2015

Respectfully submitted,

14 GILLEON LAW FIRM

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16
17 S/DANIEL M. GILLEON
18 DANIEL M. GILLEON, ESQ.
19 *Attorneys for Plaintiff Jacob*
Gregoire

20 Dated: August 13, 2015

Respectfully submitted,

21 LAW OFFICE OF STEVE
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23
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25 STEPHEN E. HOFFMAN, ESQ.
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1 Dated: August 13, 2015

Respectfully submitted,

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8 Dated: August 13, 2015

Respectfully submitted,

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19 I, Douglas E. Baxter, by my signature above, affirm and certify that all other
20 signatories listed above, and on whose behalf this filing is submitted, concur in the
21 filing's content and have authorized the filing.

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